HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 3911 OF 2006

DATED: 23.11.2006

Between:

G. Ammana Amma

… Petitioner

and

Bharat Petroleum Corporation Limited,
Represented by its Territory Manager,
Charlapalli, Hyderabad and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.3911 OF 2006

ORAL ORDER:

The writ petition is filed on an apprehension or a premonition as it were, that the 1st respondent-Corporation would not select the petitioner for award of a retail outlet dealership at Shankarapalli.

The petitioner and the respondents 3 and 4 severally applied for award of the retail outlet dealership at Shankarapalli. The Shankarapalli dealership was notified for being awarded under the defence category, by a notification published on daily press on 9.11.2005. All the applicants, including the petitioner and the party-respondents were called for an interview, which was conducted on 22.2.2006.

The petitioner, not unusually, claims to be the most eligible candidate, but alleges that the official respondents contrary to the norms stipulated by the respondent-Corporation for award of marks, have selected the 3rd respondent for the retail outlet dealership. According to the petitioner, the 3rd respondent was selected on account of award of higher marks to her on a criterion of "ready availability of finance and educational qualifications." This criterion

the petitioner alleges is not available for award of retail outlet dealership to the defence category. This is the foundation on which the writ petition is filed and the relief is claimed.

In response, on behalf of the respondents 1 and 2, a counter affidavit is filed by the Area Marketing Manager of the Corporation. To the extent relevant and material for the purposes of this writ petition, the respondent-Corporation states that though the petitioner had not submitted any representation pointing out defects in the selection process, on the basis of a complaint received on 1.3.2006 to the effect that marks awarded by the selection committee were not correctly considered on various relevant parameters, a letter was issued to the petitioner on 7.3.2006 calling upon her to furnish further details. By the letter dated 3.4.2006, the petitioner furnished further details. On receipt of the same, the General Manager of the Corporation appointed a senior officer as an enquiry officer on 27.4.2006 to enquire into the petitioner's complaint as per the applicable guidelines. During the course of consideration of the issue by the enquiry officer, another complaint was received from the 4th respondent that the selected candidate (3rd respondent) was already holding a letter of intent issued by M/s Hindustan Petroleum Corporation Limited and therefore the 3rd respondent was ineligible to be appointed as a dealer by the 1st respondent-Corporation. On receipt of this complaint from the 4th respondent, this was also referred to the enquiry officer already in place.

According to the answering respondent, the enquiry officer

submitted a report on 29.8.2006 to the General Manager to the effect that the selection committee had committed an error in judging the three candidates for their capability to arrange finance and further observed that they were however right in awarding scores for educational qualifications for all the candidates. The enquiry officer is also stated to have reported that the ranking or percentage would not however change even if the illegal considerations were excluded. In respect of the other complaint by the 4th respondent (as to the disability suffered by the 3rd respondent), the counter by the Corporation asserts that the enquiry officer, having gone into this complaint, had recommended seeking of an explanation from the 3rd respondent on the suppression of facts by her (i.e., that she was already holding a letter of intent issued by the Hindustan Petroleum Corporation Limited as on the date she has applied to the 1st respondent-Corporation for award of a retail outlet dealership at Shankarapalli). The 1st respondent's counter states that no further action could however be taken on the enquiry report as the Chief Manager of the respondent-Corporation was unwell. It is also stated that the General Manager of the Corporation had considered the enquiry report and further steps would be taken after issuing notice to the 3rd respondent (the candidate with the highest ranking).

Sri O. Manoher Reddy, the learned counsel appearing for respondents 1 and 2, states that there was an error in the selection process in the matter of awarding marks on the criterion of availability of finance.

This was a fatal error as no marks could admittedly have been awarded for availability of finance when retail outlet dealership was being considered for the restricted category of defence. In view of the fatal infirmity, it is appropriate that the respondents consider the entire issue ***de novo*** and issue a fresh notification for the purpose. There is also admittedly another infirmity in the selection. The 3rd respondent was identified as the candidate for the award of retail outlet dealership. On the admitted factual scenario, the 3rd respondent is ineligible even to apply as she already had a letter of intent issued by the Hindustan Petroleum Corporation Limited. In view of the plurality of fatal infirmities in the selection process and in the eligibility of the 3rd respondent for applying, in the considered view of this court, the respondents 1 and 2 should consider the selection ***de novo***, instead of proceeding with a seriously flawed selection.

For the aforesaid reasons, the writ petition is allowed to the extent of directing the respondents 1 and 2 to notify afresh and call for applications ***de novo*** for award of the Shankarapalli retail outlet dealership, for the defence category. Having regard to the fact that the retail outlet dealership is earmarked for award under the defence category, the respondents 1 and 2 shall initiate and complete the process of fresh selection expeditiously, in any event, within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

GODA RAGHURAM, J

Date: 23.11.2006
cvm